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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/826,830	04/16/2004	Edmond Heng Lim	LIM3	1722

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EXAMINER
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WUJCIAK, ALFRED J

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 03/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/826,830

**Applicant(s)**

LIM, EDMOND HENG

**Examiner**

Alfred Joseph Wujciak III

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 16 April 2004.  
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-21 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 16 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5) ☐ Notice of Informal Patent Application (PTO-152)  
6) ☐ Other: \_\_\_\_\_.

### **DETAILED ACTION**

This is the first Office Action for the serial number 10/826,830, PAPER PLATE BEVERAGE HOLDER, filed on 4/16/04.

#### ***Information Disclosure Statement***

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609 A(1) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered.

#### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 4 and 9-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 4 and 9, line 3 and claim 10, lines 3-4, "said paper plate" cites combination/subcombination problem because "paper plate" is not positively cited in claim 1.

Claim 9 recites the limitation "said rim" in line 3. There is insufficient antecedent basis for this limitation in the claim.

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Claims 11-18 are rejected as depending on rejected claim 10.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-6 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent # 5,110,170 to Boatwright.

Boatwright teaches a holder comprising means for holding (16) a beverage container and means for attaching (4) the means for holding a beverage to the paper plate. The means for holding comprising a substantially planar member (16) including a portion (6) and an opening in the planar member (hole inside of element 18). The portion includes a section (7) of overlap that is adapted to be attached to at least a portion of a rim of the plate (figures 3-4b). The beverage holder is formed of a material other than paper (plastic, col. 2, lines 28-29).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatwright in view of US Patent # 6,609,625 to Gibbar.

Boatwright teaches the means for attaching but fails to teach the means for attaching includes an adhesive. Gibbar teaches the means for attaching (34) includes adhesive. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added adhesive to Boatwright's means for attaching to provide permanent connection between a plate and the means for attaching.

Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatwright in view of Gibbar and in further view of US Patent # 6,807,761 to Rappaport et al.

Boatwright in view of Gibbar teaches the means for attaching includes an adhesive but fails to teach the adhesive includes a peel-off strip. Rappaport et al. teaches adhesive (24) with a peel off strip (26). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have added the peel off strip to Boatwright in view of Gibbar's adhesive as taught by Rappaport et al. to provide protection for the adhesive from external object when not being used.

Claims 4, 9 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boatwright in view of US Patent # 2,916,180 to Alger.

Boatwright teaches a holder comprising means for holding (16) a beverage container and means for attaching (4) the means for holding a beverage to the paper plate. The means for holding comprising a substantially planar member (16) including a portion (6) and an opening in

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the planar member (hole inside of element 18). The portion includes a section (7) of overlap that is adapted to be attached to at least a portion of a rim of the plate (figures 3-4b). The beverage holder is formed of a material other than paper (plastic, col. 2, lines 28-29). The planar member includes an extended portion (lower part of 6 that is underneath the rim of plate) that extends beyond the rim of the plate.

Boatwright teaches means for attaching includes forming the paper plate beverage holder as an integral part of the plate (12) but fails to teach the plate is paper. Alger teaches the paper plate (col. 1, line 23). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have modified Boatwright's plate with paper plate as taught by Alger to provide convenience for disposing paper in the garbage.

In regards to claim 21, Boatwright teaches all elements above but fails to teach the use of elements as method. It would have been obvious for one of ordinary skill in the art at the time the invention was made to have specified steps for attaching elements to paper plate and beverage to prevent from spilling the food or liquid from the plate and beverage when installing the holder thereon.

Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Boatwright in view of US Patent # 4,033,489 to Fowler.

Boatwright teaches the beverage holder but fails to teach the beverage holder is made of paper. Fowler teaches the beverage holder (10) is made of paper (col. 2, line 47). It would have been obvious for one of ordinary skill in the art at the time the invention was made to have

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modified Boatwright's beverage holder to paper as taught by Fowler to provide convenience for disposing paper in the garbage.

### ***Allowable Subject Matter***

Claims 10-18 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

The prior art fails to teach wherein an outer periphery of the extended portion is disposed intermediate the opposite end of the first and second edge.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure:

US Patent # 6,062,418 to Rathjen

US Patent # 2004/0040882 to Hemingway et al.

US Patent # 5,240,136 to Patterson et al.

US Patent # 6,682,034 to Vial

US Patent # 4,607,758 to Stevens

US Patent # 6,264,026 to Bradley

Rathjen, Hemingway et al., Patterson et al., Vial, Stevens and Bradley teach food and beverage holder.

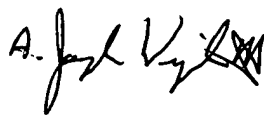
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alfred Joseph Wujciak III whose telephone number is (703) 306-5994. The examiner can normally be reached on 8am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A Braun can be reached on 703 308 2156. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Alfred Joseph Wujciak III  
Examiner  
Art Unit 3632



2/25/05